	Case 2:94-cr-00462-BMS Docu	iment 83 Filed 07/21/04 bage 1 of 44 3 4 5 7
	SENTENCE BY A PER	TO VACATE, SET ASIDE, OR CORRECT S  RSON IN FEDERAL CUSTODY -
	United States District Cou	rt Ecotern District of Bensachia
Plac	ce of Confinement	Prisoner's No.  48426 ~046 94-462
n	.s.P Leavonworth, P.O. Box 1000,	
υ	INITED STATES OF AMERICA	V Crunt William AKA Derryt  (Full-name of movant)
	2004	(Full name of movant)
	101 19 8004 A	IOTION
1.	Name and location of court which entered	the judgment of conviction under attack United
	,	The Court Eastern Gennsylvania
2		
2.		ec. 6, 1996
3.	Length of sentence $22^{1/2}$	
	Length of sentence $22^{1/2}$	
3.	Length of sentence $22^{1/2}$	11. U.S.C. \$ 241, 18 U.S.C. \$ 922 g)
3.	Nature of offense involved (all counts)	
3.	Nature of offense involved (all counts)  Nature of offense involved (all counts)  Not guilty  (b) Guilty	
<ul><li>3.</li><li>4.</li></ul>	Nature of offense involved (all counts)  Nature of offense involved (all counts)  What was your plea? (Check one)  (a) Not guilty	11. U.S.C. \$ 241, 18 U.S.C. \$ 922 G)
<ul><li>3.</li><li>4.</li></ul>	Nature of offense involved (all counts)  Nature of offense involved (all counts)  Note of the second	FILED
<ul><li>3.</li><li>4.</li><li>5.</li></ul>	Nature of offense involved (all counts)  Nature of offense involved (all counts)  Not least of the second of the s	FILED
<ul><li>3.</li><li>4.</li><li>5.</li></ul>	Nature of offense involved (all counts)  Nature of offense involved (all counts)  Not 18 U S C 3 9 3 4 (C)  What was your plea? (Check one)  (a) Not guilty  (b) Guilty  (c) Nolo contendere  Kind of trial: (Check one)  (a) Jury	FILED
<ul><li>3.</li><li>4.</li><li>5.</li><li>6.</li></ul>	Length of sentence	FILED  MICHAEL E. Nouse, Clerk  By Dep. Clerk

9.	If you did appeal, answer the following:	
	(a) Name of court Thyrol arount Court of appeal  (b) Result and Bruel was granted fully attorney and the sett	 - 
	(c) Date of Result	
10.	Other than a direct appeal from the judgment of conviction and sentence, have you previously filed any petitions, applications or motions with respect to this judgement in any federal court?  Yes No	
11.	If your answer to 10 was "yes," give the following information:	
	(a) (1) Name of court 1 miles States Protrict Court for Eastern Protrict of Nature of proceedings 5 2255	¥ -
	(3) Grounds raised Aneffective apostonce of Counsel, Delective presention, post and fifth consingment violation de to the getthorero prioro, Ronotethionality of guidelines and Commerce Guradiction of court)	- -
	(4) Did you receive an evidentiary hearing on your petition, application or motion?  Yes No 2  (5) Result Court reserved non Upprende clarge to time barred, and reserved moveled apprende clarge on its minute.  (6) Date of result Dept. 19, 2000	-
	(b) As to any second petition, application or motion, give the same information:  (1) Name of Court Shirol Circuit Court of Cippeale  (2) Nature of proceeding Certhicale of Cippealaluly	
	(3) Grounds raised Devial of gettern 3225; motion as time warred, and error on the part of the Dictrict Court in macalculation the date that putitioner filed his 2255. Which X-20 timely.	
	(4) Did you receive an evidentiary hearing on your petition, application or motion?  Yes  No	1

		(5) Result Denied for failure to make a substantial show	MAGI
		(6) Date of Result 19, 2001	1
	(c) <i>F</i>	As to any third petition, application or motion, give the same information:  (1) Name of Court Manday State Supreme Court  (2) Nature of proceeding Manday Certains	
		(3) Grounds raised Lame as grangus mations.	
		(4) Did you receive an evidentiary hearing on your petition, application or motion?	
	· months of parameters are transferred for	Yes No 🗹	
		(5) Result Served april 19, 2002 reh, den June 24, 200 (6) Date of Result	02
		(6) Date of Result Same	
	(e) If	etition, application or motion?  (1) First petition, etc. Yes No (1)  (2) Second petition, etc. Yes (2)  (3) Third petition, etc. Yes (2)  (4) You did not appeal from the adverse action on any petition, application or motion, explain why you did not:	ain
•			
12.	briefly	oncisely every ground on which you claim that you are being held unlawfully. Summari, the facts supporting each ground. If necessary, you may attach pages stating additional is and facts supporting same.	ze
		ION: If you fail to set forth all grounds in this matter, you may be barred from presentinal grounds at a later date.	ng
	proceed raise an all avail	ur information, the following is a list of the most frequently raised grounds for relief in dings. Each statement preceded by a letter constitutes a separate ground for relief. You say ground which you have other than those listed. However, you should raise in this module grounds (relating to this conviction) on which you based your allegations that you seld in custody unlawfully.	ı may otion
	must all	check any of these listed grounds. If you select one or more of these grounds for relief lege facts. The motion will be returned to you if you merely check (a) through (j) or ar the grounds.	f <del>, you</del> ny

Ground one
The court to allow him to withour his quelty plea.
The court refuged. Stating that even though the,
setitioner could not be arrected and sentenced for
"use". He could be convicted and pentence for "Carry".
Under the Kerent Supreme Court decipion in Blakeling.
The court stated "the setitioner intered a guilty slea
admitting the elements of second degree hydrapping
and phonestic vyolence, and preamen allegations but
my other relevant facto. This made clear that Blakel
that kould only be sentence to what he admitted,
to in the guilty plea, and nothing else. Unless that
something elge was determined by a jury. The court
cannot, serredy a situation where a defendant pleas
to conduct that constituted what he and The court
believed to be elignents in a offerse. Then once those
the defendants. Dry turn around and pay that
he potell pulyeded to be pertenged, and gravided
In a delegant please to the delegant of the most re-
for a sufferent general. The defendant one my le-
reine unit spoedunal papequarto verinde such a
by a Jury. Even Though 924(c) acts as a Statute
121 The gay and the parties of the come and has
the rest that mention of the analysis to motochase
Duling it a Dunishment of 5 Meson to any other offers
ran consecutively can be managed
7-54/2/2017-55-5-5-5-5-5-5-5-5-5-5-5-5-5-5-5-5-5-
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her look any particular fact which make essential to the so within, The reducements of the Rommon law, and . 1272) These Druncupa be court and treatises since sentencing, we compiled the relevant and The Stanglard sentencina determination ty of the sentence. Un Mence was enhanced beyon rance to which he could receive winder of ursuant to 4B1.1. Facts were not hound receive a incred . The Supreme, Court certainty T Procedural Pa pron Convictions and in his Rape, my prendment tation, rance, also an

int to the state of the state o
statute. The petitioner probatment stated that the petition
er was in violation of 21.4.5.c. 5841 in three different incidents. yet the inductment only stated the charged
incidents. Yet Me inductment only Played The Charged
conduct and not the senalty. The petitioner
could write receive an offende level of 30 go apposed
to 34. Abdunlife the Statute in almendaring correct
Unce 4121. 1 papplied to a defendant. The defendant,
is then polely pentence for agreer offender and mot
the underlying conviction for what the defendant
pled quelty to or found quelty of. The setitioner
receive 7 years over the pertence under The 922 (a)
a prima face showing primply a sufficient showing
of possible ment trouvarrant a fuller exploration by
the district court. The petitioner preserved these argument
in earlier getitions and he would receive a miscarriage
The state of the s
A Suche of a Dolard
of Justice if not applied
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ase 2:04-cr-00462-BMS Document 83 Filed 07/21/04 Page 7 of 44

(a)	Conviction obtained by plea of guilty which was unlawfully induced or not made voluntary or with understanding of the nature of the charge and the consequences of the plea.
(b) (c) (d) (c) (f)	Convictions obtained by use of coerced confession.  Convictions obtained by use of evidence gained pursuant to an unconstitutional search and seizure.  Convictions obtained by use of evidence obtained pursuant to an unlawful arrest.  Convictions obtained by a violation of the protection against self-incrimination.  Convictions obtained by the unconstitutional failure of the prosecution to disclose to the defendant evidence favorable to the defendant.
(g) (h) (i) (j)	Convictions obtained by the violation of the protection against double jeopardy.  Convictions obtained by action of a grand or petit jury which was unconstitutionally selected and impanelled.  Denial of effective assistance of counsel.  Denial of right of appeal.
	A. Ground one: 924 (c) commuter was imposed in moletan of the mount is and 5 amendment right. Supporting FACTS (tell your story briefly without citing cases or law): The Dictivit
	Court accepted a guilty plan from the setutioner. In which the relationer admitted to the standard of "use" defined by the Court and prosecutor at the time. The returns after the Supreme Court ruling
	in Parley (ist
	B. Ground two: Statemen received enhancements of the portence
	Supporting FACTS (tell your story briefly without citing cases or law): The Dely thorn
	has stated numerous times in every pro- sepetition
	feled to the court. That the mayorum pertence
	That he could receive for the octual quilty plea.
	is as 120 to a 150 months in offense level Dr. An
	the recent Supreme Court
	C. Ground three: The petithones Council appointed by Me
	Courts were inteffective.
	Supporting FACTS (tell your story briefly without citing cases or law): The Deputy of That he was desired of right
_	of appeal because his attoring filed an Grobers
_	buf Station that the setitioner had no ment
	wirder ware fand happenens council Mad schall
_	relations with the Retchoners work which was and

2 - 2 - 3 - 2 - 3 - 2 - 3 - 3 - 3 - 3 -	r:
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Supporting FAC	CTS (tell your short briefly without citing cases or law):
If any of the annual	unde lieted in 124° D. C. and D. uner and manufacture to account describing the
	unds listed in 12A, B, C, and D were not previously presented, state briefly where the state briefly w
grounds were not	t so presented, and give your reasons for not presenting them:
Do you have any p	petition or appeal now pending in any court as to the judgement under attack?
Give the name and	d address, if known, of each attorney who represented you in the following sta
of the judgement a	
of the judgement a	hearing Guenter Break
of the judgement a	hearing Guentin Break
(a) At preliminary	t and plea
(a) At preliminary	hearing Guentin Breaks
(a) At preliminary  (b) At arraignment	hearing Quentus Bresho
(a) At preliminary  (b) At arraignment  (c) At trial	hearing Quentur Breaks.  It and plea Dame  Dome
(a) At preliminary  (b) At arraignment  (c) At trial	hearing Quentur Breaks.  It and plea Dame  Dome
(a) At preliminary  (b) At arraignment  (c) At trial	hearing Quentur Breaks.  It and plea Dance  Done
(b) At arraignment (c) At trial (d) At sentencing	hearing Quentur Breaks.  It and plea Dame  Dome

Page # 6 of 7

	(f) In any post-conviction proceeding Quo - Per
	(g) On appeal from any adverse ruling in a post-conviction proceeding
6.	Were you sentenced on more than one count of an indictment, or on more than one indictment, in the same court at approximately the same time?
	Yes ☑ No □
7.	Do you have any future sentences to serve after you complete the sentence imposed by the judgement under attack?
	Yes 🖾 No 🗆
	(a) If so, give name and location of court which imposed sentence to be served in the future:
	ay making pa
	(b) Give date and length of the above sentence: 24 months
	(c) Have you filed, or do you contemplate filing, any petition attacking the judgement which imposed the sentence to be served in the future?
	Yes ₩ No □
ıeref	Fore, movant prays that the Court grant him all relief to which he may be entitled in this proceeding.
	Signature of Attorney (if any)
eclar	e under penalty of perjury that the foregoing is true and correct. Executed on:
	3/14/54 Quant Williams
	Signature of Movant

Case 2:94-cr-00462-BMS Document 83 Filed 07/21/04 Page 11 of 44

04cN3457

MOTION UNDER 28 USC § 2255 TO V SENTENCE BY A PERSON	
	District
Trusted at the District and	Ecotern District of Burnoughers Prisoner's No.   Docker No.
Name of Movant	Prisoner's No. Docket' No.
Served refellions	48426~046
Place of Confidement	
M.S. P Leavonworth, P.O. Box 1000, Lear	romoth, R5, 6604P
	(Include name upon which convicted)
UNITED STATES OF AMERICA V	Perry Williams AKA Kerry
	(Full name of movant)
	· · · · · · · · · · · · · · · · · · ·
MOTIC	NC .
1. Name and location of court which entered the jud	Import of conviction under attack Monted.
Atato District Court for the C	gment of conviction under attack
Day pure converted to	SWIL CASIENT SENINGINATURE
2. Date of judgement of conviction Dec. 6	) 1446
Length of sentence $22/2$	
	( 2 8 241 18 4 c ( 8 922 G)
	S. C. 3
and 18 U.S.C. \$ 924(c)	
What was your plea? (Check one)	
(a) Not guilty	
(b) Guilty ☒ (c) Nolo contendere ☐	
Kind of trial: (Check one)	
(a) Jury □ (b) Judge only ⊠	
(b) Judge only	
Did you testify at trial?	·
Yes 🔂 No 🗆 ·	
Did you appeal from the judgment of conviction?	
Yes 🖾 No 🗆	

9.	If you did appeal, answer the following:	
	(a) Name of court Third arount Court of appeal  (b) Result and Dreed was granted held be attorney and the getting	<b>-1</b>
	(c) Date of Result June 11 1998	
10.	Other than a direct appeal from the judgment of conviction and sentence, have you previously filed any petitions, applications or motions with respect to this judgement in any federal court?  Yes  No	
11.	If your answer to 10 was "yes," give the following information:	
	(a) (1) Name of equit yented States District Court for Eastern District of	1
	(2) Nature of proceedings 3 2255	
-1611-1-1-1-1-1	(3) Grounds raised Ineffective apostance of Counsel, Selective	-
	do to the get those priors, constitutionality of guidelines	
	and commerce (jurisduction of court)	
	(4) Did you receive an evidentiary hearing on your petition, application or motion?	
	Yes No 🔀	
	(5) Result Court reserved non apprenti claim on the more barried, and (6) Date of result Sept 19, 2000	
	(b) As to any second petition, application or motion, give the same information:	
	(1) Name of Court Third Circuit Court of appeals	
	(2) Nature of proceeding Certificate of Cypealability	
	(3) Grounds raised Derval of petitioner 50255 motion as time	
	barred, and error on the part of the Highert	
	Court in mocalculation the date That petitioner	
	filed hos 2255. Which are honely.	
	<u> </u>	
	(4) Did you receive an evidentiary hearing on your petition, application or motion?	
	Yes No No	

	(5) Result Somethor failure to make a substantial showing
(	(6) Date of Result (07. 9) 2001
	to any third petition, application or motion, give the same information;
	(1) Name of Court Motor State Supreme Court
(	(2) Nature of proceeding What of Certulum
_	
(	3) Grounds raised Rame as Mensus mahans.
_	
_	
_	
_	
	4) Did you receive an evidentiary hearing on your petition, application or motion?
	es □ No ⊠
. (5	5) Result Derved april 19, 2002 reh, den June 24, 2002
. (6	5) Date of Result Same
, ,	you appeal, to an appellate federal court having jurisdiction, the result of action taken on
	ion, application or motion?
•	l) First petition, etc. Yes⊠ No □
•	P) Second petition, etc. Yes ⊠ No □  No □  No □
(5)	17) Time pennon, etc. Tes S 140
` '	u did not appeal from the adverse action on any petition, application or motion, explain hy you did not:
	·
briefly the	cisely every ground on which you claim that you are being held unlawfully. Summarize a facts supporting each ground. If necessary, you may attach pages stating additional and facts supporting same.
CAUTION additional	N: If you fail to set forth all grounds in this matter, you may be barred from presenting grounds at a later date.
proceeding raise any g all availabl	information, the following is a list of the most frequently raised grounds for relief in these gs. Each statement preceded by a letter constitutes a separate ground for relief. You may ground which you have other than those listed. However, you should raise in this motion le grounds (relating to this conviction) on which you based your allegations that you are in custody unlawfully.
Do not che	eck any of these listed grounds. If you select one or more of these grounds for relief, you
-must-allege	facts. The motion will be returned to you if you merely check (a) through (j) or any
one of the	grounds.

12.

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statute. The petitioner probatment stated that the petit
er was in violation of 21.4.5.C. 9841 in three different
incidents. yet the inductment only slated the charge
conduct and not the Dengthy. The Petithoner
could only receive an offende level of 30 go appose
to 34. Also unlike The Statute in Almendages corn
is then polely pertence for kgreer of known and not
the underlying conviction for what the defendant
pled quelty to or found guilty of. The setitioner
receive 7 years over his sentence under the 922 (g)
a prima face showing is simply a sufficient showing
of popule ment towarrant a fuller exploration by
The district court. The petitioner preserved These argund
and a there and be wanted Decrees a miscaphic
in earlier getitions and be would receive a miscarriage
of Justice of not applied

(a)	Conviction obtained by plea of guilty which was unlawfully induced or not made voluntary or with understanding of the nature of the charge and the consequences of the plea.
(b) (c) (d) (c) (l)	Convictions obtained by use of coerced confession.  Convictions obtained by use of evidence gained pursuant to an unconstitutional search and seizure.  Convictions obtained by use of evidence obtained pursuant to an unlawful arrest.  Convictions obtained by a violation of the protection against self-incrimination.  Convictions obtained by the unconstitutional failure of the prosecution to disclose to the defendant evidence favorable to the defendant.
(g) (h) (i) (j)	Convictions obtained by the violation of the protection against double jeopardy.  Convictions obtained by action of a grand or petit jury which was unconstitutionally selected and impanelled.  Denial of effective assistance of counsel.  Denial of right of appeal.
	A. Ground one: 924 (c) convertion was imposed in molethan of the movent 6 and 5 amendment right.
	Supporting FACTS (tell your story briefly without citing cases or law): The Auditud
	which the petitioner admitted to the standard of
	"we" defined by the courts and procedure at the
	in Bailey. ast
	B. Ground two: Setutioner received enhancements of his sentence
	inviolation of his 4th amendment
	Supporting FACTS (tell your story briefly without citing cases or law): The petitioner
	has stated numerous three in every pro-se petition
	fled to the court. That The magimum servence
	That he could receive for the ochial quity plea.
	Was 120 To a 150 months in offense level & In
-	The recent Supreme Court
(	C. Ground three: The petitioners Councils appointed by Me
-	Cours were interpretive.
S	Supporting FACTS (tell your story briefly without citing cases or law): We Deflutioner
-	of end I here on the attorner held to a trade
-	Statum that the softwarer had no ment
_	ourous issues and his Dremons rouncel Mad sectual
	palations with the Betationes in the which was and

-	<u> </u>
	Supporting FACTS (tell your short briefly without citing cases or law):
•	
-	
1	f any of the grounds listed in 12A, B, C, and D were not previously presented, state briefly wi
٤	rounds were not so presented, and give your reasons for not presenting them:
_	
_	
_	
_	
- - D	o you have any petition or appeal now pending in any court as to the judgement under attack?  es 🔼 No 🗆
Y G	o you have any petition or appeal now pending in any court as to the judgement under attack? es No \( \subseteq \) No \( \subseteq \) ive the name and address, if known, of each attorney who represented you in the following sta
Y G	o you have any petition or appeal now pending in any court as to the judgement under attack? es No \( \subseteq \) No \( \subseteq \) ive the name and address, if known, of each attorney who represented you in the following states the judgement attacked herein:
Y G	o you have any petition or appeal now pending in any court as to the judgement under attack? es No \( \subseteq \) No \( \subseteq \) ive the name and address, if known, of each attorney who represented you in the following sta
Y G	o you have any petition or appeal now pending in any court as to the judgement under attack? es No \( \subseteq \) No \( \subseteq \) ive the name and address, if known, of each attorney who represented you in the following states the judgement attacked herein:
Y G of (a	o you have any petition or appeal now pending in any court as to the judgement under attack? es No \( \subseteq \) No \( \subseteq \) ive the name and address, if known, of each attorney who represented you in the following states the judgement attacked herein:
Y G of (a	o you have any petition or appeal now pending in any court as to the judgement under attack?  es No
Y Goi (a — (b	o you have any petition or appeal now pending in any court as to the judgement under attack?  es No
Y Goi (a — (b	o you have any petition or appeal now pending in any court as to the judgement under attack?  ive the name and address, if known, of each attorney who represented you in the following state the judgement attacked herein:  At preliminary hearing
Y Go! (a (b (c)	o you have any petition or appeal now pending in any court as to the judgement under attack?  es No each attorney who represented you in the following state in the judgement attacked herein:  At preliminary hearing August Brown  At arraignment and plea Downe
Y G of (a — (b — (c)	o you have any petition or appeal now pending in any court as to the judgement under attack?  les No

(f) In any post-conviction proceeding Quo - Pla
(1) In any post-conviction proceeding
(g) On appeal from any adverse ruling in a post-conviction proceeding Ro - Re
Were you sentenced on more than one count of an indictment, or on more than one indictment, in the same court at approximately the same time?
Yes 🔀 No 🗆
Do you have any future sentences to serve after you complete the sentence imposed by the judgement under attack?
Yes 🔀 No 🗆
(a) If so, give name and location of court which imposed sentence to be served in the future:
24 months
(b) Give date and length of the above sentence: 24 months
(b) Give date and length of the above sentence.
(c) Have you filed, or do you contemplate filing, any petition attacking the judgement which imposed the sentence to be served in the future?
Yes ₩ No □
refore, movant prays that the Court grant him all relief to which he may be entitled in this proceeding.
Signature of Attorney (if any)
Signature of Attorney (if any)
to the state of th
are under penalty of perjury that the foregoing is true and correct. Executed on:
3/14/04  (date)  Signature of Movant
. Signature of Movalit

04cJ3457

MOTI			VACATE, SET ASIDE, N IN FEDERAL CUSTO	
United	States Districi		Ecotern District Prisoner's No.	
Name of Movant	h / lle me		Prisoner's No. 48426 ~044	Docket No.
Place of Confinem	ent P.O. Box	(1000 Le	aronworth, R.S.,	46649
	ATES OF AMERIC		(Include name upo	hon AKA Derry Ever of movant)
		MOT		or movanty
Length of Nature of	dgement of conviction_sentence 22/2 offense involved (all con/8 U.S.C. § 924	unts) 21.7	6, 1996 1. S. C. & 841, 18 U.	sc § 922g)
What was (a) (b) (c)	your plea? (Check one) Not guilty Guilty Nolo contendere			
Kind of tria (a) (b)	il: (Check one) Jury Judge only			
Did you tes Yes				
Did you app Yes	peal from the judgment o	of conviction?		

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· 9.	If you did appeal, answer the following:
	(a) Name of court Third arount Court of appeal
	(b) Result ander Bruel was granted full brightness and the partition
	(c) Date of Result 1 1998
10.	Other than a direct appeal from the judgment of conviction and sentence, have you previously filed any petitions, applications or motions with respect to this judgement in any federal court?  Yes No
11.	If your answer to 10 was "yes," give the following information:
	(a) (1) Name of court 1/1 Let State Destruct Court for Extern District of (2) Nature of proceedings 9 2 255
	I $I$ $I$ $I$ $I$ $I$ $I$ $I$ $I$ $I$
	(3) Grounds raised <u>Anelfective</u> approximate of Counsel, Delective
	do to the petitioners priess, constitutionality of quidelines
	and Commerce (surreduction of Court) of Gudelines
	0
	(4) Did you receive an evidentiary hearing on your petition, application or motion?
	Yes No 🖺
	(5) Result Court reserved mon apprende clayer to the barred word (6) Date of result Dept 19, 2000
	(b) As to any second petition, application or motion, give the same information:
	(1) Name of Court Third Circuit Court of Cippale
	(2) Nature of proceeding Certificate of Uppealability
	(3) Grounds raised Demal of Gettiner 30255 motion as time
	barred, and error on the part of the Alabrut
	Aled hos 2255 Thick the state that Between
	The state of the s
	(4) Did you receive an evidentiary hearing on your petition, application or motion?
	Yes □ No ⊠

		(5) Result Doned for failure to make a substantial showing (6) Date of Result MoV. 9, 2001
	(c) A	As to any third petition, application or motion, give the same information:,  (1) Name of Court Manual State Supreme Court  (2) Nature of proceeding Manual of Certains.
		(2) Water of proceeding
		(3) Grounds raised Dame as previous motions.
		(4) Did you receive an evidentiary hearing on your petition, application or motion?
		Yes No No
		(5) Result Denied april 19, 2002 reh, der June 24, 2002
		(6) Date of Result Same
	any pe	you did not appeal from the adverse action on any petition, application or motion, explain why you did not:
•		
12.	briefly	oncisely every ground on which you claim that you are being held unlawfully. Summarize the facts supporting each ground. If necessary, you may attach pages stating additional s and facts supporting same.
		ON: If you fail to set forth all grounds in this matter, you may be barred from presenting hal grounds at a later date.
	proceed raise an all avail	ir information, the following is a list of the most frequently raised grounds for relief in these ings. Each statement preceded by a letter constitutes a separate ground for relief. You may y ground which you have other than those listed. However, you should raise in this motion able grounds (relating to this conviction) on which you based your allegations that you are eld in custody unlawfully.
	-must-all	check any of these listed grounds. If you select one or more of these grounds for relief, you ege facts. The motion will be returned to you if you merely check (a) through (j) or any he grounds.

State to The setchoner prolictment stated that the setch
er was in violation of 21. U.S.C. \$841 in three different
incidents. yet the inductment only stated the charges
conduct and not the Denalty. The Melithoner
to 34. Abdurlike the Statute in almendages forces
Once 4B1. 1 papplied to a defendant. The defendant
is then polely pentence for career of known and not
the underlying conviction for what the defendant
pled guilty to or found guilty of. The setitioner
Secure 7 years over his sentence who der The 922 (g)
a prima face showing so simply a sufficient showing
of a sable ment trouvarrant a fuller exploration by
Me district court. The getitioner preserved these argumes
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(a)	Conviction obtained by plea of guilty which was unlawfully induced or not made voluntary or with understanding of the nature of the charge and the consequences of the plea.
(b) (c) (d) (c) (l)	Convictions obtained by use of coerced confession.  Convictions obtained by use of evidence gained pursuant to an unconstitutional search and seizure.  Convictions obtained by use of evidence obtained pursuant to an unlawful arrest.  Convictions obtained by a violation of the protection against self-incrimination.  Convictions obtained by the unconstitutional failure of the prosecution to disclose to the defendant evidence favorable to the defendant.
(g) (h) (i) (j)	Convictions obtained by the violation of the protection against double jeopardy.  Convictions obtained by action of a grand or petit jury which was unconstitutionally selected and impanelled.  Denial of effective assistance of counsel.  Denial of right of appeal.
	A. Ground one: 924 (c) convertien was imposed in molethon of the movent 6 and 5 amendment right.  Supporting FACTS (tell your story briefly without citing cases or law): The District
	Court accepted a guilty oler from the setutioner. In which the setutioner admitted to the standard of use" defined by the Court and prosecutor at the time. The setution after the Suprame Court ruling
	B. Ground two: Settonen received enhancements of his pentence
	Supporting FACTS (tell your story briefly without citing cases or law): The Dethismen
	fed to the court. That the maximum pertence
	Was 120 to a 150 months in offense level Do. In
	C. Ground three: The petitioners Rounals appointed by the
	Supporting FACTS (tell your story briefly without citing cases or law): The Detutioner
-	of appeal because his attorney filed as Inders
_	wrow wowed and huggrenous counsel that setual

	Ground four:
Supp	orting FACTS (tell your short briefly without citing cases or law):
-	
•	
If any	of the grounds listed in 12A, B, C, and D were not previously presented, state briefly what
groun	ds were not so presented, and give your reasons for not presenting them:
-	
_	
, Do yo	have any netition or appeal now pending in any court as to the judgement under attack?
Yes 🔀	u have any petition or appeal now pending in any court as to the judgement under attack?  No □
Yes 🔀 Give tl of the	No \[ \]  ne name and address, if known, of each attorney who represented you in the following stage judgement attacked herein:
Yes 🔀 Give tl of the	No \[ \] ne name and address, if known, of each attorney who represented you in the following stage
Yes X Give the fall (a) At	No \[ \]  ne name and address, if known, of each attorney who represented you in the following stage judgement attacked herein:
Yes X Give the fall (a) At	No  ne name and address, if known, of each attorney who represented you in the following stage judgement attacked herein:  preliminary hearing   Arraignment and plea   Dance
Yes X Give the fall At (b) At (c) At (c)	No  ne name and address, if known, of each attorney who represented you in the following stage judgement attacked herein:  preliminary hearing   Arraignment and plea   Dance

	(f) In any post-conviction proceeding (A/10 - Plane)
	(g) On appeal from any adverse ruling in a post-conviction proceeding
	Were you sentenced on more than one count of an indictment, or on more than one indictment, in the same court at approximately the same time?
	Yes № No □
	Do you have any future sentences to serve after you complete the sentence imposed by the judgement under attack?
	Yes No No No
	(a) If so, give name and location of court which imposed sentence to be served in the future:
	74+
	(b) Give date and length of the above sentence: 24 months
	24 months
 (i	(b) Give date and length of the above sentence: 24 months  (c) Have you filed, or do you contemplate filing, any petition attacking the judgement which
(i	(b) Give date and length of the above sentence:  (c) Have you filed, or do you contemplate filing, any petition attacking the judgement which imposed the sentence to be served in the future?

MOTION UNDER 28 USC § 2255 TO VACATE, SET ASIDE, OR CORRECT SENTENCE BY A PERSON IN FEDERAL CUSTODY — —
United States District Court Eastern District of Bennauhra
Name of Movant  Prisoner's No.  Docket'No.  48426~046  Place of Confinement
M.S. P Leavonworth, P.O. Box 1000, Leavonworth, R.S., 6664P
UNITED STATES OF AMERICA V  (Include name upon which convicted)  (Full-name-of movant)
MOTION
Name and location of court which entered the judgment of conviction under attack Monted Lates District Court for the Court Eastern Gennsylvania.  Date of judgement of conviction   Dec. 6, 1996  Length of sentence   22/2  Nature of offense involved (all counts)   21. U.S.C. § 941, 18 U.S.C. § 922 G)  March 18 U.S.C. § 924(C)
What was your plea? (Check one)  (a) Not guilty  (b) Guilty  (c) Nolo contendere
Kind of trial: (Check one)  (a) Jury  (b) Judge only
Did you testify at trial? Yes ☑ No □
Did you appeal from the judgment of conviction? Yes ⊠ No □

-	
· 9.	If you did appeal, answer the following:
	(a) Name of court Third Circuit Court of appeal
	(b) Result anders Bruel was granted full by attorney and the outition
	(c) Date of Result
10.	Other than a direct appeal from the judgment of conviction and sentence, have you previously filed any petitions, applications or motions with respect to this judgement in any federal court?  Yes  No
11.	If your answer to 10 was "yes," give the following information:
	(a) (1) Name of court Montes States District Court for Extern District of (2) Nature of proceedings 3 2255
	(2) Nature of proceedings
. 16 Eustrage and of	(3) Grounds raised <u>Anelfective apostance</u> of Counsel, Delective projection, pinth and fifth omendment violation
	and Commerce ( uneduction of court) of gudelines
	(4) Did you receive an evidentiary hearing on your petition, application or motion?
	Yes No M
	(5) Result Court reserved non apprendi plane to the barred, and  (6) Date of result Sept 19, 2000
	(b) As to any second petition, application or motion, give the same information:
	(1) Name of Court Chron Cycut Court of Cappeale
	(2) Nature of proceeding Confucate of lifepealability
	(3) Grounds raised Derval of Dettern 32255 motion as time
	Court in mocalculation the date That petitioner
	filed his 2255. Which King Throly.
	8
	(4) Did you receive an evidentiary hearing on your petition, application or motion?  Yes  No  V

(5) Result Daniel for failure to make a substantial showing (6) Date of Result MoV. 4, 2001
(c) As to any third petition, application or motion, give the same information:  (1) Name of Court Mand State Supreme Court  (2) Nature of proceeding Mand, of Certaini
(2) Nature of proceeding 100001, of Celebrature
(3) Grounds raised Dame as previous motions.
(4) Did you receive an evidentiary hearing on your petition, application or motion?
Yes No No
(5) Result Derved april 19, 2002 reh, der June 24, 2002 (6) Date of Result same
(6) Date of Result Same
<ul> <li>(d) Did you appeal, to an appellate federal court having jurisdiction, the result of action taken on any petition, application or motion? <ul> <li>(1) First petition, etc.</li> <li>(2) Second petition, etc.</li> <li>(3) Third petition, etc.</li> <li>(4) Yes ☑</li> <li>(5) No ☐</li> <li>(6) If you did not appeal from the adverse action on any petition, application or motion, explain briefly why you did not:</li> </ul> </li> </ul>
State concisely every ground on which you claim that you are being held unlawfully. Summarize briefly the facts supporting each ground. If necessary, you may attach pages stating additional grounds and facts supporting same.
CAUTION: If you fail to set forth all grounds in this matter, you may be barred from presenting additional grounds at a later date.
For your information, the following is a list of the most frequently raised grounds for relief in these proceedings. Each statement preceded by a letter constitutes a separate ground for relief. You may raise any ground which you have other than those listed. However, you should raise in this motion all available grounds (relating to this conviction) on which you based your allegations that you are being held in custody unlawfully.———————————————————————————————————
Do not check any of these listed grounds. If you select one or more of these grounds for relief, you must allege facts. The motion will be returned to you if you merely check (a) through (j) or any one of the grounds.

12.

Bround one
the court to allow him to witholian his quelty slea.
The court refuged stating that even though the
petitioner could not be convicted and pertenced for
"use" Ite could be convicted and pentence for "carry.
Under the Kecent Supreme Court decipion in Blakely.
The court stated "the septhoner, entered a guilty ska
admilling the elements of second degree kidhappoing
my other relevant facto. The made clear that Blakely
that kould only be sentence to what he admitted (
to in the authorites and nothing else. Unless that
something else was determined by a super. The court
cannot, remedy a situation where a defendant pleas,
to conduct that constituted what he and the court
believed to be eliments, in a offense. Then once those
elements are redefined no longer fitting the plea of
the defendant. Den Turn around and pay that
he still subjected to be sentenged, and granted
for a sufferent element. The objection over my re-
remedy and such determination must be decided
by aluny. Even Though 924(c) acts as a statutes
in The gay senalty section At is otilicores and by
They rules that regulare sixth amendment protections
before it o punishment of 5 years to any other offense
ran consecutively, can be imposed.

statute. The setationer productment stated that the setate
er was in violation of 21.4.5.c. 5841 in three different
incidents. Yet The inductment only stated the charges
conduct and not The Desalty. The The petitioner
could only receive an offende level of 30 go apposed
Once 4B1. i papplied to a defendant. The defendant
is then polely pentence for career of lender and not
the underlying conviction for what the defendant
pled quilty to or found guilty of. The setitioner
receive 7 years over his sentence under the 922 (g)
a prima face showing so simply a sufficient showing
of popule ment tolevarrant a fuller exploration by
mearlier getitions and be would receive a miscarriage
of Justice of not applied
- of the second
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Mound three
paraplet of interest. This caused the greenous attorn
en To Sail to make Challegrap to Me Delhorers, surrathe-
then Because the setutioners case was adopted by
n. s. attorney's of five by way of a program called
F. 3d 844. In that case It stated that the,
main reason that the movant, is siturg in fed-
eral court under federal prosecution. In Grecause,
the petitioner prior grunnial record could be used
54 B1.1, and the other pactor was drug amount. The
54 B1.1, and the other pactor was drug amount. The
getitioner during the three peparate incidents states
of he indichment. Only probes, a combined total
the before the court to see if injust the petitioner
met the amount criteria, and if he did. Then
The pecand grepus was element of his offerse
that should have been taken to a jury and
proved beyond a recognable goult. Since The
gethorer & sifting in prison for a serverge un-
der career offender and not the underlying
The Phone that the movante ornor were not suct.
Done man en hackenet by the element of his
Alle 100 under a Penterraire scheme that is kincon-
Stitutional, see Blakely &

(a)	Conviction obtained by plea of guilty which was unlawfully induced or not made voluntary or with understanding of the nature of the charge and the consequences of the plea.
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	A. Ground one: 924 (c) conviction was imposed in molition of the movant 6 and 5 amendment right.
	Supporting FACTS (tell your story briefly without citing cases or law):
	which the petitioner admitted to the standard of
	time The setitions after the Supreme Court ruling
	in Bailey ast
	B. Ground two: Settlemen received enhancements of his pentence
	inviolation of his 4th amendment.
	Supporting FACTS (tell your story briefly without citing cases or law):
	Led to the court. That the maximum sentence
	that he could receive for the actual quilty plea.
	Was 120 to a 150 months in offense level & In
	the recent Supreme Court
1	C. Ground three: The petitioners Councils appointed by Me
	Courts were interference.
	Supporting FACTS (tell your story briefly without citing cases or law):
-	stated to the court, that he was defined of sught
-	of appeal because his allowing fred an ynders
	survey some land his previous council had setual
	polations with the Octobers when which was and
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	our:
<u> </u>	
Supporting F	ACTS (tell your short briefly without citing cases or law):
oupporting x	
	grounds listed in 12A, B, C, and D were not previously presented, state briefly what
grounds were	not so presented, and give your reasons for not presenting them:
	ny petition or appeal now pending in any court as to the judgement under attack? No $\square$
	and address, if known, of each attorney who represented you in the following stage
	nt attacked herein:
a) At prelimina	ary hearing Quentus Brooks
	ent and plea
b) At arraignm	
b) At arraignm	· · · · · · · · · · · · · · · · · · ·
b) At arraignm	Do-me
c) At trial	

ore, mova	nt prays that the Court g	grant him all relief to	which he may be entitled in this proceed  Our Mullem  Signature of Attorney (if any)
Yes 🛱	No 🗆 📌	·	
(c) Have imposed t	you filed, or do you con he sentence to be served	ntemplate filing, any plin the future?	petition attacking the judgement which
(b) Give	date and length of the at	pove sentence:	1 months
- 24.7			
0/2	moulyary Co	mmonutal	The Barole Molation
Yes ⊠ (a) If~so.	No □ give name and location	of court which impo	sed sentence to be served in the future:
judgemer	nt under attack?	es to serve after you o	complete the sentence imposed by the
Yes 🔀	No □		
	u sentenced on more that court at approximately		dictment, or on more than one indictmen
	appeal from any adverse	ruling in a post-conv	riction proceeding Ph - Re
(g) On a			

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-nen JUL 1 9 2004

except as noted above.

#### UNITED STATES DISTRICT COURT

04cJ3457

FOR THE EASTERN DISTRICT OF PENNSYLVANIA - DESIGNATION FORM to be used by counsel to indicate the category of the case for purpose of assignment to appropriate calendar. Leavemorth, KS 66048 PA BOX 1000 Address of Plaintiff: Address of Defendant:\_ Place of Accident, Incident or Transaction: (Use Reverse Sice For Accilional Spoce) Does this case involve multidistrict litigation possibilities? RELATED CASE IF ANY Date Termmated: Judge Case Number. \_ Civil cases are deemed related when Originally it was Julye Waldmons case. For obvious reasons it was 1. Is this case related to property inc one year previously terminated act 2. Does this case involve the same is as a prior suit pending or within o Ne-assigned 3. Does this case involve the validity any earlier numbered case pending The ald crim. # was in this court? CIVIL: (Place | in ONE CATEGO) 94 CR 462 A. Federal Question Cases: Indemnity Contract, Marine ODDICE Other Contracts 2. O FILA . - Assault, Delamation 3. Dones Aci-Fersonal Injury 4. D Marine Personal Injury 4. Antioust 5. Moior Vehicle Personal Injury 5. Patent Other Personal Injury (Please specify) D Labor-Management Relations 7. Products Liability Civil Rights Products Liability - Asbestos 8. 🖾 Habeas Corpus 9. All other Diversity Cases Seturities Acus) Cases (Please specify) 10. Social Security Review Cases 11. All other Federal Question Cases (Picase specify) ARBITRATION CERTIFICATION (Check appropriate Category) . counsel of record do hereby certify: Pursuant to Local Civil Rule 53.2. Section 3(c)(2), that to the best of my knowledge and belief, the damages recoverable in this civil a exceed the sum of \$100,000.00 exclusive of interest and costs; Relief other than monetary damages is sought. DATE: \_ Anomey I.D.# Allomey-al-Law NOTE: A trial de novo will be a trial by jury only if there has been compliance with F.R.C.P. 38. I sertify that, to my knowledge, the within case is not related to any case now pending or within one year previously terminated action in

Gress Twingnihi

# BNS ase 2:94-cr-00462-BMS Document 83 Filed 07/21/04 Page 44 of 44 FOR THE EASTERN DISTRICT OF PENNSYLVANIA

### **CASE MANAGEMENT TRACK DESIGNATION FORM**

(Civ. 660) 10/02						
Telephone FAX Number E-Mail Address						
DEPUTY CLERK Attorney for						
FUED JUL I 9 2004 Jugg Surenyymshi"						
	( )					
(f) Standard Management – Cases that do not fall into any one of the other tracks.						
(e) Special Management – Cases that do not fall into tracks (a) through (d) that are commonly referred to as complex and that need special or intense management by the court. (See reverse side of this form for a detailed explanation of special management cases.)	( )					
(d) Asbestos – Cases involving claims for personal injury or property damage from exposure to asbestos.						
(c) Arbitration - Cases required to be designated for arbitration under Local Civil Rule 53.2.	( )					
(b) Social Security - Cases requesting review of a decision of the Secretary of Health and Human Services denying plaintiff Social Security Benefits						
(a) Habeas Corpus – Cases brought under 28 U.S.C. §2241 through §2255.						
SELECT ONE OF THE FOLLOWING CASE MANAGEMENT TRACKS:						
In accordance with the Civil Justice Expense and Delay Reduction Plan of this court, counse plaintiff shall complete a case Management Track Designation Form in all civil cases at the tim filing the complaint and serve a copy on all defendants. (See § 1:03 of the plan set forth on the reviside of this form.) In the event that a defendant does not agree with the plaintiff regarding designation, that defendant shall, with its first appearance, submit to the clerk of court and serve the plaintiff and all other parties, a case management track designation form specifying the track which that defendant believes the case should be assigned.	ne of verse said ve on					
U.S.A.  v.  Derrick Williams  NO. 04-34	157					
U.S.A. : CIVIL ACTION						